

IV. Landlord and Tenant Relationships

The social and economic circumstances of owners and tenants dictated the terms and frequency of agricultural tenancy. Death of a property owner with minor children, ownership of farm land by non-resident or multiple property owners, shortage of farm labor, lack of cash for land purchases, and the scarcity of land available for purchase by young families and new immigrants resulted in situations favorable to agricultural tenancy. Other elements contributing to tenancy were the inability of free blacks to purchase even subsistence-level parcels, depletion of agricultural lands, proximity to modes of transportation, and the advent of the agricultural reform movements. Physiographic features such as soil quality or type and the lay of the land played a much smaller role in the development of rural tenancy in Delaware.

Throughout the context period (1770-1900+/-), tenants and landlords came from a wide range of social and economic backgrounds. They could be black or white, male or female, rich or poor. The number of properties one could lease out or the number of properties a tenant could occupy was limited only by labor and capital. Some individuals played the roles of tenant and landlord, renting out their own land while renting from another landlord. Some landlords were local residents; others lived as far away as Wilmington or Philadelphia and supervised their properties by way of yearly visits and local agents. Some landlords were in actuality estates administered by executors and agents. Some tenants possessed livestock of their own; others rented draught animals from the landlord; still others pooled assets with a neighbor to acquire a working team or breeding stock.

The contractual relationship between a landlord and a tenant was standard business. Based on a written or verbal lease stating terms for payment of rent and care of the property, tenancy also relied on common practice and assumptions as well as legal precedent. The tenant was responsible for good care and husbandry of the farm as well as the production of sufficient high-quality crops to satisfy his rent payment. Leases might also stipulate the repair or construction of outbuildings and the improvement or protection of agricultural lands through ditching, draining, fencing, and fertilizing. In some cases, the evidence of the construction and improvements stipulated by nineteenth century leases remains on the rural landscape today in the form of farm complexes, fence lines, hedge rows, tree lines, etc.

In 1818 S. H. Black described the state of New Castle County agriculture:

First, that from the situation of our land generally in this county, at the present time, when cultivated by the owner, according to the prevailing mode, it nets him, clear of taxes, repairs, and labor, nothing; and is not improving in quality, or fairly advancing in price. And when it is cultivated by tenants, themselves, their families and stock, must be deprived of a portion of what is justly due them, or the landlords must lose their rents. And when rents are obtained by pressing, as it were, the

vital blood from the occupants, more is lost in the destruction and wreck of the property than is gained by the proprietor in money or in produce: and consequently, that neither landlords nor tenants gain anything, nor ever will, so long as affairs remain as they are at present; every cultivator of a poor soil on lease, being in fact but a fashionable day laborer, and every owner of such land, if his only resource, no more than a splendid pauper.

Apparently, agriculture was not a business for making money, whether the farmer was a tenant, landlord, or owner-occupant. In fact it was an undertaking that required considerable outlay of capital and labor in order to make any profit. Gouveneur Emerson, a multiple property owner in Little Creek Hundred in the 1850s, 60s, and 70s did not see much improvement in the situation when he wrote in 1855:

It might have been said of many, that the more land they possessed to fence, pay taxes upon, and receive unprofitable labor, the poorer the owners. These often lived with the reputation of wealth, but on dying had their bankruptcy revealed. If such was the hard lot of the proprietor, that of the tenant was not much better, and he was too often , overwhelmed by pecuniary distresses whilst nobly struggling to secure a living for his family.

The success and profitability of tenancy depended on the production of high quality crops, soil improvement, and reasonable rents. Failure to meet these conditions on the part of either tenant or landlord often resulted in financial ruin for one or both parties.

The effects of contractual terms on the property types associated with the agricultural tenancy historic context are many and varied. To develop preservation planning strategies from survey to treatment for this context, we need an overview of the contractual, economic, and legal aspects of landlord-tenant relationships. Lease terms, legal rights of both parties, procedures for rent collection, restrictions and directions for care of the land, and systems for choosing a tenant represent the categories of information necessary to understand the material and landscape consequences of tenancy.

Choosing a Tenant

The selection of a tenant for a farm was a crucial concern for landlords. Whether they resided in Philadelphia or Wilmington or elsewhere in the state, landlords could not constantly monitor the actions of their tenant and the condition of their property. The ideal tenant was

a man or woman who could be relied upon to keep the farm in good condition and hopefully, to improve it somewhat during their tenure. Most landlords were willing to put in some effort to make their tenant farm attractive to a good tenant. In 1874, William Wilson of Pencader Hundred wrote

I want the place a year so that I can fence it, I want to put up a porch, a corn crib, a hen house, a yard. and a garden. I also want to whitewash and paint some. I wish to make the place fit for a respectable tenant. I will not spend one cent on the place while Hudsons live there.

Some landlords, like John Dickinson or Sarah Ann Sipple, employed local residents as agents- -they were responsible for collecting rents, settling minor problems with tenants, overseeing repairs made at the landlord's expense, and most importantly, providing recommendations for future tenancy. Recommendations might also come from someone whose opinion the landlord trusted, such as a relative or close family friend. Reverend Nicholas Ridgely relied on his brother, Dr. Henry Ridgely of Dover, for references. In 1847, the doctor wrote

I have been applied to by several persons for the Draper farm for next year, thinking that I had the renting of it. Three have requested me to write to you for them. Robert Donovan is an excellent farmer & will agree he says to make 500 loads of manure every year. He is however a very [quick?], fickle changeable kind of a fellow. John Jackson is an old man, but very industrious, & a good farmer: he has been renting land for a long time & has never been turned off by any of his landlords: he lived in one of our places ten years ago and the farm has not had as good a tenant since. John Flouacris is a young man & a hard working fellow: he makes a good deal of manure & tills his crops well: he now lives on one of my neck farms...He has a fine field of corn, the best in the neighborhood...any one of these three will, I think, make you a good tenant...

The most important qualities for Ridgely's prospective tenants were proven ability as a productive farmer, good character, and willingness to work at improving the land. These characteristics and abilities could have an immediate impact on the construction of new farm buildings, hedgerows, fencing, land reclamation, and planting practices--all of which may survive today on an agricultural property that is being considered for inclusion in the agricultural tenancy historic context.

Lease Terms

The lease terms for tenant farms in the Upper Peninsula Zone were usually straight forward and specific. The lease period ranged from one year to twenty. Often the lease was

written for a single year and then renewed informally each year. Leases generally began in March and rental payments were due following the harvest in November. A written lease between John Dickinson and William White in 1781 for a six-year term provides a clear example of the contractual terms and performance conditions of tenancy.

Eight hundred Bushels of good sound clean merchantable Winter Wheat, to be delivered annually at Philadelphia or Christiana Bridge--or two hundred and fifty pounds in gold and silver

5 Tons of good clean well cured and well kept merchantable red Clover Hay of the first Crop to be delivered at Dover

100 pounds of good sweet potted Butter

50 pounds of good sweet Lard

50 pounds of good Candles, six to the pound to be mixed with Beeswax,

if I supply it--the Quantity to be encreased in proportion to the Quantity of Beeswax I shall supply

50 pounds of clean good white wool

50 pounds of well swingled & well hackel'd good & well cured Flax

25 pounds Of hard soap

3 well fattened Beeves, being Cows or Steers well grown & between four & seven years old

10 Good Hogs, each weighing about one hundred & fifteen pounds, well fattened with good sound Indian Corn

The Tenant to have the two white Mares & their Colts, the grey Mares, the Bay Mare, the two Bay horses, & the sorrel horse, twenty five Cows, twenty one calves, thirty Hogs & sixty sheep Ages of Horses & Cattle to be ascertained as nearly as may be, and stock of all sorts to be returned at the End of the Term in kind and of as good Breeds as those received

(If) more use of the stock to belong to the Tenant, the Tenant is to have the Use of the Cider Mill & the two stalls, which are to be returned at the End of the Term in perfectly good Order

The place to be let is all that part of m'y Estate lying between the plantation leased some years ago to William Maxwell, & that lately leased to John Dickinson junior, excepting a Corner formed by the Division Fences between Me and Joshua Gordon & land formerly of John Smith, containing as I intend to add a little more by clearing about fifteen acres, each Tenant which is to have range for one Cow & one sow of pigs, good Wood for building & dead wood for firing--& (also) excepting a small p(iece) intended to be conveyed to Joshua Gordon for straitning the Road & also excepting the priviledges granted by me to Joseph Wheeler I and my Family are to have the priviledge of lodging, boarding for ourselves & servants, when we come to Kent & pasturage & feed for our Horses

If the Tenant sows in anyone year more than ten acres in Oats, ninetenths of all the Oats he shall raise that year shall belong to me

No field or part of the premises to be sowed in Winter Grain more than once in three Years No field or part of the premises to be planted in Indian Corn more than once in three years

No Timber or Wood to be cut for Rails, Fencing or Repairs but in the

swamps, or between the new Ground now stubble Field and Clarke's point & marsh, & none to be cut beyond the Line formed by the Extension of the Northwesterly Line of the said stubble Field to the Creek-
- The Tenant will also be permitted to clear out all the Trees except twelve Poplars growing between the large stubble Field & the Calf pasture

No wood to be cut for firewood but dead wood in the land to be cleared

No Tree or Trees, to be deadended under any pretence whatever except *in* the Land to be cleared and no Trees fit for Rails or Timber to be deadended even there

No Trees to be cut down or injured in the groves that are left standing No Fruit Tree of any kind to be cut down or injured The Garden and the Clover Field before the Door or any part thereof not to be ploughed up...of good Fruit Trees not to be hurt

No waste of any kind to be done or suffered by the Tenant Tenant not to assign the Premises or any part without Lease in Writing first

Tenancy increasingly came under scrutiny by agricultural reformers who looked to English models for improvement. John Taylor, a Virginia farmer, decried the contemporary system of tenancy in which

[t]his necessary class of men are bribed by agriculturists, not to improve. but to impoverish their land, by a share of the crop for one year; an ingenious contrivance for placing the lands in these states. under an annual rack rent. and a removing tenant.

Taylor argued that wages in money, rather than rents in the form of crop shares, stimulated gradual agricultural improvement because "the condition of both parties would be annually bettered."⁴⁹ Acknowledging that a wage system would not likely develop, Taylor attacked short-term leases as fundamentally incapable of promoting good husbandry. Only by establishing long leases--at least 20 years in duration--could sustained improvement of the soil take place. Landlords were not eager, however, to enter into lengthy relationships with tenants who had not proven their abilities at farming. In a letter to the secretary of the Philadelphia Society for Promoting Agriculture, one landlord wrote that he would not grant a lease longer than three years to any new tenant, noting that "trials of temper, industry, and management, are as necessary, in this kind of co-partnership, as is integrity." Instead of

extended lease periods, he continued, the practice of holding-over "under the terms, without actual renewal of the lease, for many years" characterized typical arrangements for tenancy.

Rents

Rents were paid in cash, crops, or a combination of the two. Crop rents specified yield amounts such as "three hundred Bushels of good clean Sound well cured merchantable Wheat or percentages. The lease often specified that the tenant deliver the crop rent to a specific location, sometimes the landlord's residence and sometimes a wharf or granary at a shipping port such as Leipsic.

In 1836, the Superior Court of Delaware ruled that a tenancy without any limitation as to time was for one year; a tenant was liable for one year's rent even if he occupied the property for only part of the year. The court also declared that if a tenant informed the landlord that he intended to quit the premises, any occupation beyond his announced departure made the tenant liable for the whole year's rent because his stay "prevented another tenant from coming in.

Nonpayment of rent and abandonment of leased properties presented a real problem for landlords in the late eighteenth and early nineteenth centuries. In 1793, the General Assembly passed an act "for the better regulation of distresses for rent. The preamble of the act recognized the economic suffering due to a lack of regulation over the taking of goods for payment of rent when a tenant had broken a contract or lease. Under the new regulations, a tenant was given notification in writing that he had five days either to pay the past due rent or to provide the sheriff with sufficient security for the amount of the rent. The landlord needed only to register a complaint with the sheriff. After five days, the constable seized the tenant's goods for appraisal by "two reputable freeholders." After the appraisal, sale of the goods was to be advertised for six days. Revenues from the sale paid the rent and the sale costs. Surplus cash was retained for the tenant. If the tenant was able to prove that no rent was actually due and his goods had been sold, he could recover "double the value of the goods or chattels so distrained and sold, together with full cost of the suit." Other provisions in the act stipulated that if the tenant's goods that were sold included crops

or cattle, the purchasers "of any such corn, grass, hops, roots, fruits...or other products, shall have free egress and regress to and from the same where growing, to repair the fences from time to time, and when ripe, to cut, gather, make, cure, and lay up and thresh, and after to carry away."

The cases that tested this act commonly resulted in judgements that favored the landlords. There were provisions protecting the tenant's rights after an event, but the first actions taken in any case were usually to protect the landlord's property. Landlord's rights to collect rents were also protected when their tenant was sued by another party. In the first quarter of the nineteenth century, suits for recovery of debts were seen in large numbers. Often when the defendant's goods were inventoried prior to sale, there would be a note on the inventory stating that the sale of those goods would be subject to the landlord's claim for rent. In many cases after the goods were sold and the landlord was paid there was nothing left to pay the debt from the original judgement.

Directions for Care and Use of the Land

One of the areas of greatest relevance for the theme of agricultural tenancy and the recognition of related property types resides in the contractual expectations related to the cultivation and maintenance of the land. Two of the key elements in any tenant lease dealt with the preservation of arable land and woodland management. As the agricultural reform movement increased its influence in the Upper Peninsula Zone, leases increasingly included instructions to tenants about activities designed to improve the quality of the property. Ditching and draining, for example, reclaimed arable land from marsh and swamp land. Fertilization with lime and guano and crop rotation increased the fertility of the soil. When a landlord required these procedures by lease he had the legal system on his side to insure enforcement.

The Delaware courts protected agricultural land from activities that were contrary to "customary" agricultural practice. John Layton, second husband of Sarah Wilds, was tenantry a property that had belonged to Wilds' first husband; the rents were to be used to reduce the debts owed by Wilds' estate. Rather than increasing the value of the land, Layton had 'exhausted' the land by tilling two-thirds of the land in Indian corn, rather than the one-third customary for "good husbandry." The court issued an injunction to restrain Layton from tilling the property because Layton was farming the land "contrary to the usage of the country in which it is situate. Such improper tillage, when tending to depreciate the value of the

Inheritance, is waste.

While the conservation and productivity of arable land represented the tenant's central concern, the maintenance of wood lots and timbered land also extended into the tenant landlord equation. Leases frequently enjoined tenants from clearing timbered land or from cutting down trees for firewood or construction purposes. Cutting timber against a landlord's directions was a serious matter. The courts recognized that a tenant needed wood to survive and typically allowed that he:

shall have necessary fire-wood and timber for keeping fences up, and the buildings in tenantable repair. He could not cultivate and secure his crops, or perhaps dwell in the house without such a privilege .

In 1831, the court ruled that in order for a tenant to be liable for cutting his landlord's timber, the plaintiff had to prove that the timber cutting was against the consent of the landlord. Acceptable proof was considered to be a stipulation in the lease against the cutting of unnecessary timber.. If a jury agreed that the tenant had cut excessive timber, he could be fined. Employees of the tenant were also liable for cutting timber even if they did not know personally that it was done without the consent of the landlord.⁵⁷ If a tenant was found to have been selling the wood he had cut on the property, he was liable for the full market value of the product created from the wood and would be required to pay the landlord for that value.

The contractual agreement reached between a landlord and tenant could touch on many aspects related to the physical resources of surviving tenant farms. Specifications regarding crop rotation, land clearance, timber cutting, and fencing all left evidence on the agricultural landscape.